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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,878	01/23/2001	Graham Wolstenholme	MI55-003	4402

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SPOKANE, WA 99201-3828

EXAMINER

BOOTH, RICHARD A

ART UNIT	PAPER NUMBER
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2812

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/768,878

Applicant(s)

WOLSTENHOLME, GRAHAM

Examiner

Richard A. Booth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-31, 36, 37, 39-41 and 45-60 is/are pending in the application.
- 4a) Of the above claim(s) 39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-31, 45-53 and 55-58 is/are allowed.
- 6) ☒ Claim(s) 36, 37, 40, 41, 54, 59 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 59-60 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, fails to provide support for the subject matter of claims 59-60. Note that the embodiment of Figures 8-9 clearly teaches that the gate oxide is stack etched along with the floating gate on both the source and drain sides

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-37, 40-41, and 54 are rejected under 35 USC 103(a) as being unpatentable by Hsu et al., U.S. Patent 5,552,331 in view of Lee, U.S. Patent 5,270,240.

Hsu et al. shows the invention as claimed including a method of forming a line of flash memory cells comprising: forming a line of floating gates 226 over a semiconductor substrate 220, the line of floating gates having a source side 239 and a drain side (note that since a FET based device is symmetric the source and drain are interchangeable); depositing an insulative sidewall forming layer 252 over the line of floating gates; and in one anisotropic etching step of the insulative sidewall forming layer, forming an insulative sidewall spacer 256 on only the drain/source side and not on the source/drain side by masking the source/drain side with masking material 254 during the one anisotropic etching step, the insulative sidewall spacer having an outermost surface, and in another anisotropic etching step, forming a second insulative sidewall spacer on the other side (see fig. 14A) (see figs. 10A-14c and col. 3-line 52 to col. 4-line 59).

Hsu et al. fails to expressly disclose the line of floating gates having an insulative cap having an outermost surface and the insulative spacers having an outermost surface which is substantially elevationally coincident with the insulative cap outermost surface.

Lee discloses forming a line of floating gates 10 over a semiconductor substrate, the line of floating gates having an insulative cap 112 having an outermost surface and in one anisotropic etching step, forming insulative sidewall spacers (see fig. 12) elevationally coincident with the insulative cap outermost surface (see col. 6-line 31 to col. 7-line 3). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the primary reference of Hsu

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et al. so as to form insulative cap layers over the floating gate and forming spacers elevationally coincident with these spacers because it is well known in the art that providing such cap layers will reduce any etch damage to device layers caused by the etching and formation of the spacers.

***Allowable Subject Matter***

Claims 24-31, 45-53, and 55-58 are allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A. Booth whose telephone number is 308-3446. The examiner can normally be reached on Monday-Thursday from 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on 308-3325. The fax phone numbers for the organization where this application or proceeding is assigned are 308-7724 for regular communications and 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1782.



Richard A. Booth  
Primary Examiner  
Art Unit 2812

April 14, 2003